

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESale PRICE)
LITIGATION)
_____)
)

THIS DOCUMENT RELATES TO:)

MDL No. 1456

Master File No. 01-12257-PBS

Subcategory Case No. 06-11337 -PBS

United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Abbott Laboratories,)
Inc., Civil Action No. 06-11337-PBS;)

Hon. Patti B. Saris

United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Dey, Inc., et al., Civil)
Action No. 05-11084-PBS; and)

Magistrate Judge Marianne B. Bowler

United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Boehringer Ingelheim)
Corp., et al., Civil Action No. 07-10248-PBS)
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FEBRUARY 2009 STATUS REPORT OF THE UNITED STATES AND THE RELATOR
VEN-A-CARE OF THE FLORIDA KEYS

The United States of America (“United States”) and Ven-A-Care of the Florida Keys, Inc. (“Ven-A-Care” or the “Relator”), Plaintiffs, through their undersigned counsel, respectfully file the attached Status Report for February 2009, in accordance with the Court’s June 17, 2004, Procedural Order.

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc., v. Abbott Laboratories, Inc. MDL Docket Number 06-11337 Original Jurisdiction: U. S. District Court Southern District of Florida		
Item No.	Pending Motions	Hearing Date
1.	(Master Docket #5750 and Subcategory Docket #103) Brief by United States of America Relating to the In Camera Submission of Documents following the Hearing on November 13, 2008. (12/18/2008) Judge Patti B. Saris: Electronic Order entered Referring to Magistrate Judge Marianne B. Bowler	
2.	(Master Docket #5797 and Subcategory Docket #131) Objection by United States of America to the December 4, 2008 Order By Magistrate Judge Bowler. (Master Docket #5840 and Subcategory Docket #151) Response by Abbott Laboratories, Inc.	
3.	(Master Docket #5810 and #5813 and Subcategory Docket #138 and #140) Joint Motion to Compel Relief on Outstanding Deliberative Process Privilege Issues by Abbott Laboratories, Inc. and Memorandum (Master Docket #5847 and Subcategory Docket #155) Response by United States of America (Master Docket #5867 and Subcategory Docket #164) Consent Motion for Leave to File Joint Reply Memorandum by Abbott	
4.	(Master Docket #5826 and Subcategory Docket #146) Objection to Order on Motion to Compel Sufficient Responses to Abbott's Request for Admission, filed by Abbott Laboratories, Inc. (Master Docket #5871 and Subcategory Docket #165) Motion for Leave to File Response filed by the United States	

	<p align="center">United States of America ex rel. Ven-A-Care of the Florida Keys, Inc. v. Dey, Inc., et al., MDL Docket No. 05-11084-PBS Original Jurisdiction: United States District Court, District of Massachusetts</p>	
Item No.	Pending Motions	Hearing Date
1.	<p>(Master Docket # 5725, #5726 and #5727 and Subcategory Docket #89, #90 and #91) Motion to Compel the Production of Documents and supporting Memorandum and Declaration by Dey, Inc. [relating to the Georgia Department of Community Health] (Subcategory Docket #160) First Opposition re Motion to Compel the Production of Documents filed by Georgia DCH</p>	
2.	<p>(Master Docket # 5728, #5729 and #5730 and Subcategory Docket #92, #93 and #94) Motion to Compel Luis Cobo and Ven-A-Care of the Florida Keys, Inc. to Produce Documents and supporting Memorandum and Declaration by Dey, Inc.</p> <p>(Master Docket #5780 and Subcategory Docket #120) Assented to Motion for Extension of Time to December 30, 2008 to File Response/Reply</p> <p>(Master Docket #5806 and Subcategory Docket #134) Assented to Motion for Extension of Time to January 9, 2009 to Respond to Dey, Inc.'s Motion to Compel Luis Cobo and Ven-A-Care of the Florida Keys, Inc. to Produce Documents by Luis E. Cobo.</p> <p>(Master Docket #5865 and Subcategory Docket #163) Motion for Leave to File a Reply Memorandum</p>	
3.	<p>(Master Docket #5765 and Subcategory Docket #111) Motion to Extend the Production Deadline for the Limited Purpose of Receiving Medicaid Claims Data from States by Dey, Inc.</p> <p>(Master Docket #5800 and Subcategory Docket #132) Memorandum in Opposition by United States</p> <p>(Master Docket #5822 and Subcategory Docket #144) Motion for Leave to File a Reply in Further Support for its Motion to Extend the Deadline for the Limited Purpose of Receiving Medicaid Claims Data from States filed by Dey</p>	

4.	<p>(Master Docket # 5776, #5777 and #5778 and Subcategory Docket #116, #117 and #118) Motion to Compel Production of Documents Responsive to Subpoena and supporting Memorandum and Declaration by Dey, Inc. [re Delaware, North Carolina, Oklahoma, and South Dakota]</p> <p>(Master Docket #5808 and Subcategory Docket #136) Memorandum in Opposition by United States</p> <p>(Master Docket #5851 and Subcategory Docket #156) Motion for Leave to File a Reply in Further Support of Motion filed by Dey</p> <p>(Master Docket #5852 and Subcategory Docket #157) Objection to (5776 in 1:01-cv-12257-PBS) MOTION to Compel Production of Documents Responsive to Subpoena, filed by Oklahoma Health Care Authority.</p>	
5.	<p>(Master Docket #5826 and Subcategory Docket #146) Objection to Order on Motion to Compel Sufficient Responses to Abbott's Request for Admission, filed by Abbott Laboratories, Inc.</p> <p>(Master Docket #5871 and Subcategory Docket #165) Motion for Leave to File Response filed by the United States</p>	

	<p align="center">United States of America ex rel. Ven-A-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp., et al., MDL Docket No. 07-10248-PBS Original Jurisdiction: United States District Court, District of Massachusetts</p>	
Item No.	Pending Motions	Hearing Date
1.	<p>(Original Case Docket #78) Relator's Objections to the September 26, 2008 Order by the Magistrate Judge on the Roxane Defendants' Joint Motion to Compel Production of Relator Ven-a-care's Disclosure Statement and Any Subsequent Amendments</p> <p>(Original Case Docket #80) United States Objection to Order on Motion to Compel</p> <p>(Original Case Docket #82) Roxane Defendants' Response by Boehringer Ingelheim to Objections</p> <p>(Original Case Docket #87) Relator's Assented to Motion for Leave to File Reply to Roxane's Response</p>	

2.	(Master Docket #5672 and Subcategory Docket #63) United States Motion for Clarification of Order By Magistrate Judge Dated October 29, 2008. [This pleading was also docketed as Original Docket #92 (in Case No. 07-10248-PBS)]	
3.	(Master Docket # 5697 and #5698 and Subcategory Docket #78 and #79) Motion to Compel Production of Documents and Rule 30(b)(6) Deposition of Kansas Health Policy Authority and Memorandum of Law in Support Thereof by Boehringer Ingelheim Pharmaceuticals, Inc., and Affidavit of John W. Reale in Support [These pleadings were also docketed as Original Docket #96 and #97 (in Case No. 07-10248-PBS)]	
4.	(Master Docket # 5674, 5675 and 5676 and Subcategory Docket #65, #66 and #67) Joint Motion for Appointment of a Special Master by Roxane Laboratories, Inc., Dey, Inc., Abbott Laboratories, Inc., Joint Statement of Counsel and Memorandum of Law (12/18/2008) Judge Patti B. Saris: Electronic Order entered Referring to Magistrate Judge Marianne B. Bowler	
5.	(Master Docket # 5678 and 5679 and Subcategory Docket #68 and #69) United States Motion for Protective Order Regarding the Roxane Defendants' Rule 30(b)(6) Notice and Memorandum of Law (Master Docket #5712 and Subcategory Docket #84) Opposition filed by Boehringer Ingelheim Pharmaceuticals, Inc.	

Respectfully Submitted,

For the United States of America,

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February 2, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above "**FEBRUARY 2009 STATUS REPORT OF THE UNITED STATES AND THE RELATOR VEN-A-CARE OF THE FLORIDA KEYS**" to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Mark Lavine

Dated: February 2, 2009